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The Solicitors' Journal

[ESTABLISHED 1857.] [REGISTERED AS A NEWSPAPER.]

VOL. LXXVII. No. 38 [PAGES 645 TO 656]. Saturday, September 23, 1933. PUBLISHED WEEKLY. PRICE ONE SHILLING.

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The Solicitors' Journal

VOL. LXXVII. **Saturday, September 23, 1933.** No. 38

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Current Topics.

The Michaelmas Term.

A FALL in the aggregate number of causes set down for hearing during the forthcoming law sittings is disclosed by the figures recently made available. In the King's Bench Division there is a decrease of 109 causes, the number this year being 1,079, consisting of 258 special and 422 common jury actions (including four special jury actions in the New Procedure List), 139 non-jury actions in the Ordinary List, 199 in the New Procedure List, thirty-one in the Commercial List, and thirty under Ord. XIV. In the Chancery Division the number of causes and matters is 276, as compared with 209 for the corresponding period of last year, while there is a fall of 152 in the Probate, Divorce and Admiralty Division, the number this year being 978, consisting of 638 undefended causes, 287 defended causes, seven special jury actions, and forty-six common jury actions. There is an increase of twenty-four in the number of appeals, the figure this year being 154. Six of these are interlocutory, nineteen are from the Chancery Division (including four in bankruptcy), 107 are from the King's Bench Division (including nine from the Revenue Paper), fifteen from the Probate, Divorce and Admiralty Division, fourteen from county courts in workmen's compensation cases, and three from the County Palatine Court of Lancaster. The number of cases down for hearing in the Divisional Court of the King's Bench Division shows a decline of forty, from 173 to 133. In the Civil Paper the number is sixty-six, as against 101 at the corresponding period of last year. In the Crown Paper there is an increase of seven cases, the number this year being forty, while the remainder consists of appeals in the Revenue Paper, in the Special Paper, under the Housing Acts, and under the Unemployment Insurance Act. The figures constitute a disheartening array, and lawyers must console themselves with the thought that the recent rise in the trade returns will probably in due course bring in a harvest of increased litigation.

An Important Point in Medical Jurisprudence.

THE newspaper reports of a recent Buckinghamshire inquest raise a legal issue of great interest, and one which is of the gravest importance to the medical profession. Quite shortly, the question is whether abortion can ever be justifiable in the eye of the law. Probably nineteen doctors out of twenty would have very little hesitation in giving an affirmative answer, and it is a well-known fact that abortion is resorted to with increasing frequency in cases where it is believed that the life of the woman would otherwise be endangered. The ordinary layman, on the other hand, usually regards abortion as necessarily criminal, and this view is to some extent upheld by the learned editors of "Taylor's Medical Jurisprudence." In a passage of great interest, they submit that at common law it was always a crime in any circumstances, and that even now it is doubtful whether any abortion is actually legal. They go on to quote the very excellent advice given by the principal authorities of the medical world that no doctor should take the step of performing an operation to procure abortion without having a written confirmatory opinion by another member of the profession, and further, that the sole good ground for such an operation is imminent danger to the life of the woman. It may be questioned whether in fact the operation is so clearly unlawful in all circumstances ; whatever may have been the position at common law, it has for many years been governed by the Offences Against the Person Act, 1861, s. 59, the opening words of which are : "Whosoever shall *unlawfully* supply or procure—." This section clearly seems to presuppose that in some circumstances abortion may be lawful, though, unfortunately, it does not state what they are. The recent inquest referred to above was upon a woman who had died as the result of two operations, the first of which was for the purpose of procuring abortion. From the evidence it was perfectly clear that the woman's life was in grave danger. The coroner expressed his appreciation of the doctor's action and the verdict may be taken as supporting the view that "legal abortion" does exist. It is a pity that no Act has been passed to make this perfectly clear, and that there is apparently no High Court decision on this important point. It seems a very invidious position that a doctor may fear that, after making a most serious decision and exercising his skill and judgment to the best of his ability, some doubt should be cast on the legality of his action.

The Dog Owner and the Poultry Keeper.

SEVERAL cases have recently been reported as coming before the inferior courts in which dog owners have been sued by poultry keepers for damage sustained by dogs running amok in the poultry yard. Curiously enough, the fact does not seem to have penetrated very deeply into the public mind, that the owner of a dog is liable for damages done by his dog to poultry just in the same way as he is liable if that dog does injury to cattle or sheep without any proof of *scienter*. This was brought about as a result of the passing of the Dogs (Amendment) Act, 1928, which brought domestic poultry of all kinds within the scope of the principal Act of 1906. That particular piece of legislation has gone a long way towards making dog owners more careful about allowing their dogs to wander at large—a little weakness which the courts were formerly apt to regard with some indulgence on the principle that a dog and a cat are domesticated animals gifted with a predisposition to wandering. It is a curious fact that, as matters now stand, if a man's dog kills his neighbour's chickens, he will have to pay for the damage, but if his prowling cat kills the neighbour's chickens he may not be liable. This follows from the decision in several of the most recent cases on animal trespass.

An Inquest without a Body.

IN holding an inquest in Donegal on the death of Mr. KINGSLEY PORTER, Professor of Fine Arts at Harvard

University, Dr. J. P. McGinley, the Coroner, observed that, in the absence of the body, it was probably the first of its kind in Ireland. In fact it appeared from the evidence of the widow that the Professor, whose married life had been very happy, and who had no financial or other troubles that she knew, had taken a walk along the steep cliff of an island just off the mainland and had never been seen again. Witnesses from the island gave evidence that he could neither have remained there nor returned to the mainland without their knowledge. It also appeared that the short grass on the top of the cliffs was slippery, and if the Professor had missed his footing and fallen into the sea, the currents would have carried his body away as had happened in previous cases. In the circumstances the verdict of "death by misadventure" appeared the obvious course, and was duly returned. The presence of the body, and the view of it, were no doubt indispensable features of our ancient law as to coroners' inquests. In *R.* v. *Parker* (1675), 2 Lev. 140, the coroner's inquest on a drowned man was quashed for various technical reasons, but, the man having been long since buried, and the modern procedure for exhumation not being available, it was held that no further coroner's inquest could be held, but that the justices of the peace, being authorised to inquire into felonies, could deal with the matter. Now s. 18 of the Coroners (Amendment) Act, 1926, gives a coroner power, when he has reason to believe a death has taken place within his jurisdiction, and "owing to the destruction of the body by fire or otherwise or to the fact that the body is lying in a place from which it cannot be recovered" no ordinary inquest can be held, to report to the Home Secretary, who can direct an inquest on lines modified by the fact that the body is not on view. In the most likely cases of destruction of the body, namely, burning by petrol in an aeroplane accident, or an explosion in a munitions factory, there would be separate statutory inquiries, and an inquest might not be deemed necessary. There are cases, however, in which the section might conceivably be very useful. The collection of evidence as early as possible may be valuable, even if the verdict is wrong. As to the possible danger of prosecution where no corpse has been found, see the extraordinary case of *The Perrys* (1660), 14 State Trials, 1312, quoted in our note, "The Corpse as Evidence of Murder" (73 Sol. J. 619).

Mental Deficiency and Marriage.

Recently a man was charged at the Old Bailey, presumably under s. 56 (1) (*a*) of the Mental Deficiency Act, 1913, with unlawful carnal knowledge of a woman described as a mental defective placed out on licence. This woman had been certified so long ago as 1915, but her mental condition was such that she was fit to go out into service, and recently had been maidservant at a maternity hospital. The prisoner had kept company with her, but had been warned by an inspector under the Act against doing so. As the result of their association she had become pregnant. The man pleaded guilty to the charge, but strongly asserted that the woman was no longer mentally deficient. Both man and woman were anxious to marry, but the Board of Control constituted under s. 22 of the Act of 1913 had notified objection to the Registrar-General, so that licence was withheld. At the trial, the Recorder read a letter written by the woman, and said it was a remarkable one, raising the question whether she was now rightly certifiable. The present certificate was, however, conclusive. He postponed sentence, observing that it was highly desirable that the woman should have an independent examination. If, he added, she were not mentally defective, these two people might be able to achieve the object of their ambition. Obviously, if such an examination proved that a certificate was no longer applicable, the woman would have a justifiable grievance in the legal veto on her marriage, especially if her child was born before it was removed. Marriage is not specifically dealt with in the Act, but s. 22 gives the Board the general superintendence of matters relating to the supervision, protection, and control of defectives, and, by s. 12, a guardian of a defective has all the powers of a father of a child of fourteen in respect of him or her. At that date a child of fourteen could marry with the consent of a guardian, so presumably the power remains in respect of a defective, though children of fourteen can no longer marry. Presumably, also, a mental defective has not the power to appeal to a magistrate, as an infant now has under the Guardianship Act, 1925, to overrule a guardian's veto. A mental defective, as such, is not a lunatic within the Marriage of Lunatics Act, 1811, and presumably can contract marriage if sufficiently intelligent to be aware of the nature of the ceremony. There are many reasons against the marriage of the mentally defective, but, the Act of 1913 being passed for their protection, and not for the protection of the community against the possible deficiencies of their issue, the veto on marriage under it should be very carefully safeguarded to give the benefit of the doubt to any person of sufficient intelligence to understand the implications of matrimony.

Judicial Promotion.

Although the office of Sheriff Substitute in Scotland, which, as was pointed out recently in these columns, is equivalent to that of county court judge in England, is usually regarded as a *cul-de-sac*, that is, the appointee as a rule can look for no higher post however meritorious his judicial services may have been, there have been instances where a Sheriff Substitute has been fortunate enough to be promoted to the higher post of Sheriff Principal. Such an instance has just occurred, one of the Sheriff Substitutes for Lanarkshire having been appointed to the more dignified office of Sheriff Principal of the same county, which by the way, is one of the most highly remunerated in the country, and deservedly so, in view of the onerous duties falling to the holder of the post in the most populous county north of the Tweed. The incident, pleasing in itself, suggests the enquiry whether in England judicial promotion might not with advantage be more the rule than the exception. Why should an appointment as a county court judge be almost invariably considered as the *terminus ad quem* of the judicial career of the person selected for the office? Experience in the inferior tribunal ought to prove a valuable training ground for the more important duties that fall to a judge of the High Court. So far, Mr. Justice Acton is the only instance of a county court judge reaching the higher dignity of a judge of the Supreme Court, and no one can doubt that in his case the experiment, if so it may be called, has been amply justified by the learned judge's success in his present office. In addition to recognising meritorious service in the humbler post, the prospect of advancement is an incentive to greater excellence, if that is possible, in the work done, and, further, the prospect of eligibility for the High Court bench might well attract members of the Bar who in the present condition of things would decline to consider a judgeship in the lower court.

The Law Society's Provincial Meeting at Oxford.

The Forty-ninth Provincial Meeting of The Law Society is to be held at the Carfax Assembly Rooms at Oxford, on Tuesday and Wednesday, the 26th and 27th of this month, and the course of procedure to be adopted at this meeting, as settled by the Council of The Law Society, appears at page 655 of this issue. A full report of the proceedings, together with the various papers read at the meeting, will be published in successive issues of The Solicitors' Journal, commencing with the special Law Society Number of the 30th September. That issue will also contain a photogravure portrait of the President of The Law Society, Sir Reginald Poole, B.A.

CORRECTION.

In the title to the Current Topic "The Rights of Way Act, 1933," at p. 634 of our issue of last week, the date 1933 should have read 1932.

Summary Jurisdiction (Appeals) Act, 1933.

THE above Act which comes into force on the 1st January next was passed after an exhaustive consideration by a Committee appointed by the Home Secretary of the present procedure governing appeals for courts of summary jurisdiction, particularly as they affected persons of small means.

The alterations to be brought about in practice and procedure are sufficiently considerable to warrant a full survey of them in comparison with present law.

The Act confers no new right of appeal and its main provisions only extend to convictions, sentences, orders, determinations or other decisions of courts of summary jurisdiction, though s. 1, the provisions of which are substituted for s. 31 of the Summary Jurisdiction Act, 1879, will naturally apply to appeals under any Act which provides that appeals under it are to be in manner provided by the Summary Jurisdiction Acts. An example of such an appeal is one against the refusal by the local authority of an urban district to the establishment of an offensive trade under s. 112 of the Public Health Act, 1875, the right of appeal being given by s. 7 of the Public Health Amendment Act, 1890, which is construed as one with the earlier Act (*R.* v. *Essex JJ., Barking Urban Council* [1916] 2 K.B. 406).

The provisions hereafter referred to for holding special courts and the constitution of county quarter sessions appeal courts are to be applicable to appeals under ss. 301 to 313 of the Lunacy Act, 1890, or under s. 97 of the Poor Law Act, 1930, but none of the other provisions are to apply to such appeals (s. 9). Section 313 of the former Act expressly negatives the application of the provisions of s. 31 of the Summary Jurisdiction Act, 1879, to appeals under the Act. With regard to appeals against orders of removal under the Poor Law Act, it was held in the case of such an order under an earlier Act that the provisions of s. 31 did not apply, since orders of removal made by justices were excepted from the Summary Jurisdiction Act, 1848, by s. 35 of the latter Act (*R.* v. *Somersetshire JJ.* [1889] 22 Q.B.D. 625).

Under the present practice prescribed by the existing s. 31 of the Summary Jurisdiction Act, 1879, the intending appellant must serve written notice of his intention to appeal on the clerk to the court of summary jurisdiction and the other party within the time limited by the Act giving the right of appeal, or if no time is limited, within seven days from the decision appealed against. The new Act fixes a uniform period of fourteen days irrespective of any period mentioned in the Act giving the right of appeal, inconsistent provisions in any such Act being repealed by s. 10.

At present a notice of appeal (unless against a conviction or order) must be signed by the appellant or his attorney: Quarter Sessions Act, 1849, s. 1. The latter section is repealed as far as relates to all appeals from courts of summary jurisdiction, and in future any notice of appeal to which the Summary Jurisdiction Acts apply may be signed by an agent.

At present the appellant must within three days after giving notice of appeal enter into a recognisance with or without sureties, or give security by deposit, conditioned to appear and try the appeal, abide the judgment of the court, and pay such costs as may be awarded against him. If entered into before the service of notice (*R.* v. *Cheshire JJ.* (1896), 60 J.P. 585), or after the three days (R. v. *Glamorganshire JJ.* (1890), 24 Q.B.D. 675), the non-compliance with the section is fatal to the appeal, if the other party insists on the technical objection.

Under the substituted section in the new Act the appellant has twenty-one days from the date of the decision for entering into the recognisance or making the deposit, but it must still be done *after* giving notice to the clerk to the court of summary jurisdiction, though not necessarily after service of notice on the other party. The new section says that the recognisance is to be conditioned to "*prosecute his appeal with diligence*" and *omits any reference to abiding by the judgment of the appeal court or the payment of costs.* Further, an appellant who is in custody may be released on a recognisance with or without sureties conditioned merely on his "*appearing at the hearing of the appeal,*" or giving other security for the same purpose.

New rules as to recognisances will doubtless be made under the Summary Jurisdiction Acts to come into force with the new Act, but they obviously cannot prescribe a form going beyond the provisions of the Act, and in future, therefore, one of the great difficulties in getting a surety to enter into a recognisance for a person of small means (the fear of having to pay the penalty if the appeal is unsuccessful and costs are awarded against the appellant) will disappear.

The new time limit for entering into recognisance to prosecute the appeal is evidently fixed to meet the case of courts held only at fortnightly intervals, as the amount of security, whether by recognisance or deposit, must be fixed either by the court whose decision is being appealed against (application can be made after the decision) or by another court of summary jurisdiction acting for the same petty sessional division or place.

Another important alteration with regard to security is that in fixing the amount the court is to have regard, not only to the purpose of the recognisance (or deposit), *but also to the appellant's means.* Whether the words "having regard to the purpose of the recognisance" will allow the justices to fix a larger sum than they might otherwise do for a person of small means, on the ground that they consider that under the circumstances an appeal would be hopeless for the appellant, may yet have to be decided. For example, certain Acts give a general right of appeal to a person aggrieved without the limitation found in s. 37 of the Criminal Justice Administration Act, 1914, to one who had "not pleaded guilty or admitted the truth of the information," and in any such case the convicted person can appeal and have the whole case tried *de novo* at quarter sessions, although he has pleaded guilty, or, by himself or his advocate, admitted the truth of the information (*Mittleman* v. *Denman* [1920] 1 K.B. 519). It could hardly be considered necessarily within the spirit of the Act in such a case that the justices should have to fix a nominal amount for the security on the ground of the want of means of the defendant, unless perhaps the sentence was unusually severe.

At present the appeal (unless otherwise fixed by the Act giving the right) is to the next general or quarter sessions to be held after the expiration of fifteen clear days from the decision appealed against, and (according to accepted practice, there being no statutory provision) the appellant must enter the appeal with the clerk of the peace and pay the prescribed fee for doing so. In future the appeal is not to any particular sessions but to a court of quarter sessions having jurisdiction in the county borough or place for which the court of summary jurisdiction acted, and (by s. 3) the appellant is relieved from the duty of entering the appeal. As soon as the recognisance is entered into or deposit made, the clerk to the court of summary jurisdiction is required to send the notice and the recognisance (if any), or a statement of the security given, to the clerk of the peace, and *thereupon* the clerk of the peace is to enter the appeal, and *in due course* he is to give notice to the appellant, the other party to the appeal, and to the clerk to the court below of the date, time and place fixed for hearing. This notice may be sent by registered post (s. 3 (1).)

The provision as to notice seems to indicate some lack of practical knowledge on the part of the draftsman, though a possible difficulty may be met by new rules under the Summary Jurisdiction Acts. The address of the appellant usually appears in the notice of appeal, and the address of both parties should be in the recognisance, but there is no absolute necessity for it to be inserted in the notice, and there may be

no recognisance. The respondent's address certainly need not appear in the notice, and in the present form of certificate of conviction, which is forwarded to the clerk of the peace, neither the address of the appellant nor the name of the prosecutor appears. The section says nothing about service on an agent, but presumably on the principle that notice to an agent is notice to his principal, a notice to the solicitors concerned on either side will be sufficient.

If the appellant is in custody and is released on separate recognisance or on giving separate security, the recognisance or a statement of the security is to be sent to the clerk of the peace before the hearing of the appeal.

Provision is made for the first time (by s. 4) for the *abandonment* of an appeal. At present an appeal once entered must be called on, and if neither party appears, it is struck out, and if the respondent only appears, the appeal is dismissed with costs. In future an appellant may, by written notice to the clerk of the court of summary jurisdiction, at least two clear days before the day fixed for hearing, abandon his appeal. The clerk to the court of summary jurisdiction is forthwith to inform the clerk of the peace who is to retransmit the recognisance (if any) to the former, and any question of costs and the forfeiture of any recognisance will be dealt with by any court of summary jurisdiction acting for the same division or place as the court from whose decision the appeal was instituted, and a single justice may issue process for enforcing the decision against which notice of appeal was given. The only case after abandonment in which quarter sessions will deal with the costs will be where an appeal aid certificate has been given as hereafter mentioned, when an order will be made for payment out of the local fund.

Apart from the altered condition of the recognisance the chief provisions for the benefit of persons of small means are to be found in ss. 2 and 5.

Section 2 provides for the granting to person appealing *against a conviction or sentence or a probation order* of "an appeal aid certficate" analogous to a defence certificate under the Poor Prisoners' Defence Act, 1930. It can be granted by the court of summary jurisdiction whose decision is appealed against, or any other court of summary jurisdiction acting for the same petty sessional division or place, and in case of the refusal of that court to grant it (and only in that event, herein differing from a defence certificate) by the court of quarter sessions. In the latter case application is to be made either by letter to the clerk of the peace, setting out the facts and the grounds of application, or in court. In case of an appeal to county quarter sessions, if the application is by letter, the chairman or deputy chairman may grant the certificate. Presumably it is implied that the recorder of borough sessions can grant a certificate out of court on a similar application, though, strictly speaking, there is no "court" till the recorder takes his seat, and there appears to be no statutory definition of such a court as including the recorder when not sitting. In the Poor Prisoners' Defence Act the power to grant a defence certificate is expressly conferred on the judge or chairman of the court. The court or person granting the certificate is to be satisfied that the means of the appeallant are insufficient to enable him to obtain legal aid *and* that, by reason of the nature of the offence of which he is convicted, *or* of the sentence, *or* of exceptional circumstances, it is desirable in the interests of justice that he shall have legal aid. Rules (not issued at the time of writing) are to be made by the Attorney-General, with the approval of the Lord Chancellor, prescribing the form of certificate, and the manner in which counsel and solicitors are to be allotted, and by the Home Secretary as to scale of costs, which will be paid out of the county or borough fund (as in the case of poor prisoners' costs).

It will be observed that the power to grant the certificate is strictly limited to persons found guilty of offences, and that, for example, a poor person appealing against an affiliation order or the refusal to make such an order will not be entitled to ask for legal aid.

Section 5, however, which makes a somewhat momentous alteration as to costs, applies to all appeals from courts of summary jurisdiction. It provides that on any appeal to which the Act applies a successful appellant may be awarded in addition to the costs of the appeal, costs (which may be fixed by the court) incurred by him before the court below, and that in any case, *whichever party is successful*, the court *may* give a lump sum for costs instead of directing a taxation, and *shall* have regard to the means of the party against whom costs are awarded. It will be observed that this provision "cuts both ways," as the phrase goes, and that whilst an unsuccessful appellant possessed of small means may only have very small amount of costs awarded against him, a successful appellant possessed of ample means may, if the respondent is a private individual of small means, and not a police officer or officer of a local authority (against whom, presumably, full costs would be awarded), may find he has to pay the bulk of the costs entailed by his successful appeal. This section also contains another material alteration of practice. Costs awarded are to be directed to be paid to the successful party. That part of s. 27 of the Summary Jurisdiction Act, 1848, which directs that costs awarded shall be paid to the clerk of the peace to be paid over to the successful appellant and provides for the giving by the clerk of the peace a certificate of non-payment is repealed. Any costs awarded by either quarter sessions, or by a court of summary jurisdiction on the abandonment of an appeal, are to be recoverable summarily as a civil debt and in no other manner (ss. 5 (2) and 4 (3)).

The Act is silent as to what should be done with the deposit (if one is made in lieu of entering into a recognisance) after the conclusion of the appeal. Presumably it will be repaid by the clerk to the justices, when he receives from the clerk of the peace notice of the decision which the substituted s. 31 of the Summary Jurisdiction Act, 1879 (para. (ix)), directs is to be given in every case and not as now only when the decision of the court below is not confirmed.

Section 6 introduces an entire innovation with regard to forfeiting a recognisance but, in view of the alterations in the conditions of the recognisances previously referred to, it would appear that the only cases in which recognisances given on appeals to which the Act applies can be brought up for estreat will be where the appellant fails to prosecute the appeal, or alternatively to abandon it in due time, or, if he is released from custody on a recognisance, if he fails to appear in person on the hearing of the appeal.

At present, apart from the case where an appellant after being released decamps, the chief reason for asking for an estreat is the non-payment of costs awarded against the appellant. The latter default will in future not render the appellant or a surety liable to the consequences of an estreat, which in case of non-payment of the penalty and its not being recovered by distress results in imprisonment, at present for an indeterminate period.

At present too, where an application to estreat is made, the court, although for good reason, it may adjourn application, has no power in any other way to give time for payment, and cannot discharge the person bound from liability.

Under the new provisions of the section, quarter sessions in the case of recognisances entered into in relation to appeals to which the Act applies may make an order either wholly discharging the recognisance or reducing the amount of the penalty, and, whether the amount be reduced or not, may fix a future date for payment or make the amount payable by instalments, and *must* in any case in which estreat is ordered fix the term of imprisonment to be suffered if the sum is not paid and cannot be recovered by distress.

County Quarter Sessions (elsewhere than in London) must in future appoint a committee of justices (selected "so far

as practicable from those having special qualifications for the hearing of appeals") and appoint annually a chairman and one or more deputy chairmen, except that where there is a paid chairman of the sessions he is to be the chairman of the committee and a paid deputy chairman is to be deputy chairman of the committee. The committee may sit at any place it sees fit, and two courts may be held at the same time. The provisions are very similar to those contained in the Rating and Valuation Act, 1925, as to the appointment of a committee to hear rating appeals. The court when sitting is to be composed of not less than three nor more than twelve members of the committee, the chairman of the court having a casting vote. In boroughs having a separate court of quarter sessions the recorder or his deputy may hold courts for hearing of appeals under the Act or under the Lunacy or Poor Law Acts at any time, and the provisions of the Municipal Corporations Act, 1882, as to the appointment of an assistant recorder to hold a second court are applied to all such appeals (s. 7).

In the County of London a special court for hearing appeals is to be constituted from a panel consisting of the paid chairman and any paid deputy chairman, and the chairman (if he claims to act) of, or (failing such claim) a justice appointed by each petty sessional division (other than the City). The court must include the paid chairman or paid deputy chairman, who may sit alone if no other member of the panel is present, and who has a casting vote (s. 8).

Section 11 which provides for the coming into operation of the Act on 1st January, 1934, contains a proviso that an appeal against a decision given before that date *may* be brought within the time and in accordance with the provisions as to notice of appeal and recognisances which would have been applicable if the new Act had not been passed. It is not quite clear what is the force of the word "may." It is to be presumed that a person convicted on, say the 23rd December, who had not given notice of appeal by the 30th, would on the 1st January be entitled to say "my time for appeal has been extended from seven to fourteen days." On the other hand, an appeal from a decision of a court of summary jurisdiction under the Town and Country Planning Act, 1932, could still be commenced within the twenty-eight days allowed by s. 39 (2) of that Act, although that sub-section is repealed by the new Act.

Finally, it may be noted that in the substituted s. 31 of the Summary Jurisdiction Act, 1879, quarter sessions are expressly authorised on an appeal against a conviction or sentence to award a heavier sentence than that appealed against, providing it is one which would have been within the power of the court below to award.

Compensation for Injury by Accident.

LAST term was marked by a House of Lords' decision of the first importance in the law of workmen's compensation. There had been some doubt for many years as to how far s. 29 (1) of the Workmen's Compensation Act, 1925, and its predecessors in earlier Acts, for it is far from being a new clause, exempts an employer from actions brought other than under the Act. The position has now been made quite clear as a result of the decision mentioned above.

Section 29 (1) is as follows: "When the injury was caused by the personal negligence or wilful neglect of the employer or of some person for whose act or default the employer is responsible, nothing in this Act shall affect any civil liability of the employer . . . but the employer . . . shall not be liable to any proceedings independently of this Act, except in case of such personal negligence or wilful act as aforesaid." This would at first sight appear to be perfectly clear and straightforward and cause one to wonder at the mass of cases which have arisen upon it. But in fact it does not specifically mention a most important class of case, i.e., breaches by the employer of a duty imposed by some other statute.

As recently as last December the Court of Appeal (Scrutton, Lawrence and Greer, L.JJ.) had held in *Rudd* v. *Elder Dempster & Co.* [1933] 1 K.B. 566, that s. 29 (1) exempted the employer from such an action brought for a breach of a statutory duty. Their lordships decided unanimously that the section does not extend to such a breach; in this they followed certain dicta of Slesser, L.J., in *Higgins* v. *Harrison*, 25 B.W.C.C. 113. Lawrence, L.J., in the course of his judgment, said: "I find it impossible to give any other meaning to the concluding words of the section than that it operates to relieve an employer from all civil liability at common law for injury sustained by a workman as the result of an accident arising out of and in the course of his employment . . . " He then referred to s. 32, which provides that nothing in the Act shall affect any proceedings for a fine under certain enactments. His lordship continued, "unless the effect of s. 29 be to prevent civil proceedings being taken by a workman against his employers for breach of his statutory duty under the Acts mentioned in s. 32, it is difficult to explain the reason for expressly preserving the liability of the employers for penalties for such breaches."

It is indeed a remarkable fact that though cases on almost identical facts have many times come before the courts both in England and in Scotland, this was the first occasion on which the issue of "personal negligence" was actually raised and a definite decision given upon it. It is even more curious that the very same point should have reached the House of Lords by way of an appeal from the Second Division of the Court of Session within a few months of the decision in *Rudd's Case*. The facts of this case, *Lochgelly Iron and Coal Co., Ltd.* v. *M'Mullan*, 49 T.L.R. 566 (77 SOL. J. 539), can be stated very shortly indeed.

The appellant company had employed the respondent's son in their mine. While so working, the son was killed by a fall of the roof, due, so the respondent alleged, to the appellants' failure to carry out the liability to keep it secure imposed on them by the Coal Mines Act, 1911, s.s. 49 and 52. The respondent brought an action for damages against the company, who pleaded that the action was excluded by the Workmen's Compensation Act, 1925, s. 29 (1). This plea was upheld by the Lord Ordinary, the judge of first instance, but was rejected by the Second Division of the Court of Session.

The House of Lords was thus faced with the difficult position of two completely contradictory decisions, one by the Court of Appeal and one by the Court of Session, on the same point. Their lordships decided unanimously in favour of the view taken by the Scottish Court. The speeches delivered were remarkably careful as might be expected in such circumstances, and that of Lord Wright, which may be regarded as the leading judgment, gives a complete review of the law from the time of the first origin of this troublesome clause. He could find no reason at all for assuming that breaches of a statutory liability are covered by it, nor did he have any difficulty in deciding that a limited company can be "personally negligent," an opinion in which the rest of their lordships concurred.

It would be impossible to give more than a résumé of the speeches delivered in this important case, but there are certain passages in the speech of Lord Wright which are of peculiar interest. His lordship said, when considering the effect of the Coal Mines Act, 1911, ss. 49 and 102 (8) (the sections which impose the liability in connection with roof support), "the cause of action is complete on proof of breach of the statutory duty, and in any case it is a duty which attaches to the employer personally, whether corporation or individual, since the employer cannot delegate the duty and cannot escape liability by relying on the doctrine of common employment; thus the liability for damages to anyone injured by the breach

of a statutory duty is on the employer personally . . . Hence the breach of such a duty as that in question has been, I think, correctly described as statutory negligence."

This passage completely settles the issue though his lordship went on to discuss the various cases which have been decided. His lordship dealt with the point raised by Lawrence, L.J., in *Rudd's Case* (*supra*), and said that he could derive no benefit from s. 32, which deals with fines or criminal proceedings, and which he regarded as too remote from s. 29 (1), which deals with civil proceedings only. Nor was he diverted from this view by the fact that the fines are in some cases applied for the benefit of the injured man, and to that extent may be regarded as quasi-civil. Lord Atkin, also, dealt with *Rudd's Case*, and explained it by saying " that the judgments of the Court of Appeal have attached too much importance to forms of action."

Thus was decided this most important point, and it is very difficult, even if it were any use, to quarrel with the view taken by the House of Lords. It is, indeed, far from clear in what light one should regard a definite breach of a duty laid by statute specifically on a person, whether corporation or individual, if not as " personal negligence or wilful act " of that person. The number of cases on this point show its great practical importance; it was more than time that it was finally settled.

The only regret that may be felt is that the case of *Wheeler and Another* v. *New Merton Board Mills Ltd.*, 49 T.L.R. 574, was not decided at the time of *M'Mullan's Case*. In this case, again one of a breach of statutory duty, there were two defences put forward, s. 29 (1), and *volenti non fit injuria*. In view of the decision in *M'Mullan's Case* the former defence fell to the ground, and the Court of Appeal, following *Baddeley* v. *Earl Granville*, 19 C.P.D. 423, 36 W.R. 63, refused to uphold the latter principally on the ground that *Baddeley's Case* has stood unchallenged for fifty years. It would be decidedly interesting to hear the views of the House of Lords on the question as to whether *volenti non fit injuria* is a good defence in such cases.

Company Law and Practice.

Sale of the Company's Undertakings.

This week I want to touch upon a few points in connection with a question with which I apprehend that the more experienced company practitioners are fully acquainted, but which nevertheless frequently present problems to those of us who are not so accustomed to dealing with the intricacies of company law. At the risk of boring the experts in these problems I propose to consider certain aspects of the numerous questions which arise when a company is desirous of selling its business (I am purposely refraining from employing a more technical expression) lock, stock and barrel. In the case of many companies, and especially in the case of private companies, there often comes a time when the company's period of usefulness appears to those who control it to have passed for ever. It is hardly necessary to consider here the multitude of reasons which may give rise to such a situation, but I am taking here the cases of companies which, when the situation arises, find themselves in a financially sound condition. The question usually put to the company practitioner is this: the company wishes to cease carrying on business and sell all its assets to A, or to the A Company, as a going concern. Can this be done without going into liquidation? The answer is in the affirmative, subject to certain important qualifications, and provided that there is power in the company's memorandum of association to effect such a sale. There must be this express power in order that such a sale may be *intra vires* (see *Cotton* v. *Imperial and Foreign Agency* [1892] 3 Ch. 454). And the purchaser must satisfy himself that the power is there, because what is in a company's memorandum is a matter of external knowledge. A stranger dealing with a company has the right to assume that the provisions of the articles of association dealing with the internal management of the company have been duly complied with, on the principle of the well-known authority *Royal British Bank* v. *Turquand*, 5 E. & B. 248. But in the case of the memorandum regulating, as it does, the company in its relations to strangers, the position is different, and if a company purports to sell its undertaking, and has no power, or an insufficient power, in its memorandum to effect such a sale, the contract will be *ultra vires* and unenforceable.

The power in the memorandum authorising the company to sell is usually a power to " sell, lease or otherwise dispose of all or any part of the company's undertaking for such consideration as the company may think fit; and in particular for shares, stock, obligations, debentures, debenture stock, scrip or securities of any company; and to divide any shares, stock or securities belonging to the company among its members in specie." That was the power which the company had in *Cotton* v. *Imperial and Foreign Agency*, *supra*, and Chitty, J., held that it was a good power, and that the company could sell. Where the power is as wide as that, and is in express terms, there may be no difficulty in a sale of this nature, especially if it be a sale for cash. But it is very important, and, indeed, essential to exclude from the agreement for sale any mention of the fact that the company which is selling is about to go into liquidation, and, furthermore, for the reasons which follow, the selling company should not go into liquidation for a year or more after the sale has taken place.

In order to explain why this is so, we must bear in mind the provisions of s. 234 of the Companies Act, 1929. By making use of the provisions of s. 234 any company, whether there is power in its memorandum or not, can, through its liquidator, effect a sale of its undertaking, as a going concern. But the provisions of the section must be strictly complied with, such as the provision to be made for dissentient shareholders ((sub-s. (3)).

The section applies only to a member's voluntarily winding up, as s. 191 makes provision for a sale where the company is being wound up by the court or under supervision. The important point is that s. 234 applies to the case of a company which is " proposed to be, or is in the course of being, wound up altogether voluntarily, and the whole or any part of its business or property is proposed to be transferred or sold to another company." Then the liquidator may, with the sanction of a special resolution of the selling company, sell the undertaking for shares in the purchasing company, and distribute such shares or other consideration for the sale among the members of the selling company. It is not necessary for us to consider at the moment the mass of authority which has grown up on this section, or rather upon the sections of the older Acts which it replaces, but we may notice in passing that it has been held that an arrangement by which the shareholders in company A have to pay a premium for the shares which they acquire in company B is not a valid sale or arrangement under the section. But where the shareholders of company A are to take partly paid shares to company B, the sale is valid: *City and County Investment Coy.*, 13 Ch. D. 475. In a sale not under the section, but under clauses in the memorandum such as those which we have already considered, it is a question of construction whether the memorandum authorises a sale for partly paid shares: See *Mason* v. *Motor Traction Coy.* [1905] 1 Ch. 419. But Buckley, J., in that case, in holding that the company upon the construction of its memorandum had power to sell its undertaking for partly paid shares, limited himself to a sale between the two companies by saying that, were the shareholders of the selling company as distinct from the corporation, to be compelled to take the shares, and thus come under a liability, a totally different question would arise.

It will thus be seen that where the sale agreement shows that the selling company is about to be wound up, the sale cannot be effected without regard to the provisions of s. 234, because a company cannot do that which the section authorises it to do without conforming to the conditions imposed by it. This brings us to that most important decision of the Court of Appeal upon this point—I refer to *Bisgood* v. *Henderson's Transvaal Estate Ltd.* [1908] 1 Ch. 743. The judgment of the court was delivered by Buckley, L.J., and he said this: "The sale of even all the property of a company at a particular moment may be, but the sale of the whole undertaking and division of the proceeds cannot be, a corporate object." It is submitted that the words "division of the proceeds" must be taken to qualify the learned judge's remarks. In so far as Chitty, J.'s, decision in *Cotton* v. *Imperial Foreign Agency, supra*, applied to a sale followed by a division of the proceeds, it is clear that *Bisgood's Case* expressly overruled it. As Buckley, L.J., points out, a distribution of the capital of a company (except in a reduction of capital) can only be made in a winding up. An agreement for sale may be a corporate act of the going company, but an agreement providing for the sale of the company's undertaking and the distribution of the proceeds of sale among its members, can only be valid when the company is proposed to be, or is in the course of being, wound up. If the company is proposed to be wound up,then, as we have seen, the provisions of s. 234 must be complied with.

It is clear from our brief examination of the position, that the most satisfactory course for a company, which finds itself in the hypothetical position referred to at the beginning of this article, to pursue, is to effect a sale under the provisions of s. 234. If, however, there is sufficient power in the memorandum to sell, the company may sell under that power if there is no indication in the sale agreement that the company is about to be wound up, and so long as the company is not wound up immediately, or shortly after, the sale. If the consideration for the sale is to be shares in another company, the shares cannot be forced upon the members of the selling company without complying with the provisions of s. 234.

A Conveyancer's Diary.

Settlements by way of Trust for Sale.

As time goes on I am more than ever convinced that all land which is intended to be settled should be conveyed to trustees upon trust for sale in preference to creating a settlement under the S.L.A.

Everyone in practice must have found, as I certainly have, that the advantages of a trust for sale far counterbalance any disadvantages that there may be. That method of settlement is, moreover, simple, is easily understood by the layman and has none of those technical objections attending a settlement under the S.L.A.

It seems to me, however, unfortunate that powers of sale can no longer be exercised by trustees. It would have been wiser to leave powers in the hands of trustees than to confer them upon tenants for life.

The great, and as I think unnecessarily great, powers conferred upon tenants for life are not always well or fairly exercised with a due regard to the wishes of those interested in remainder, whose rights are likely to be more considered by trustees than by a tenant for life.

It is true that a tenant for life does not receive the purchase money on a sale, and it seems to have been thought that that provision was a sufficient protection to remaindermen. That however, is not so.

Most of us will have had experience of cases where a tenant for life has wantonly gone against the wishes and interests of remaindermen, and that, sometimes, where his expectancy of enjoyment of the property could have only been short.

I recollect a case where a testator devised his residence to trustees upon trust to permit his widow to reside therein so long as she should think fit, and upon her death or ceasing to reside, in trust for his son for life with remainders over. The house, though not a very large one, had belonged to the testator and his forebears for generations. He had, however, married for a second time late in life, and his widow (who was not the mother of his children) who had no interest, it seems, in the family associations, resided in the house for a few months and then proceeded to sell it.

The son was not able to purchase the residence, but offered to join in a re-settlement whereby he would become tenant for life and charge the property with an annuity in the widow's favour equal to the interest on what was considered to be a fair value. That offer was rejected (as it was suggested out of pure spite) and the house was sold. The widow did not benefit by the sale, as when invested the purchase price did not yield an income equal to the annuity which she had been offered.

Now, it seems to be that the testator certainly never contemplated such a state of things. Doubtless, he thought that his widow (who was amply provided for) would like to reside on the family property. He never intended that she should have the right to sell it contrary to the wishes of his son, nor was there anything in his will which would lead him to think that such an event was possible. Nevertheless, the statute gave her that power and nothing could be done to prevent her exercising it.

If the testator had been well advised he would have devised the property to trustees upon trust for sale, with power to postpone the sale (a power which is now implied). He could then have provided that until sale his widow should be allowed to reside in the house, and further that no sale should take place without her consent. He could also, of course, have added such provisions for upkeep, insurance and so forth as he pleased.

If that method had been adopted the widow would have had all that the testator intended she should have.

There would also be no objection in such a case to the testator further directing that no sale should take place without the consent of the son or other person for the time being interested, subject to the widow's right of residence.

That form of settlement is not, I think, adopted as frequently as it should be. The advantages of it are many and obvious, and in practically every instance really carries out what the settlor desires to do.

It will be remembered in this connection that by s. 28 of the L.P.A., 1925, trustees for sale are given all the powers of management which are conferred upon trustees of a settlement during a minority by s. 102 of the S.L.A., 1925. Those powers are ample (perhaps too ample) and enable trustees (*a*) to fell timber and cut underwood for repairs or other purposes; (*b*) to erect, pull down, rebuild and repair houses and other buildings; (*c*) to continue the working of mines, minerals and quarries; (*d*) to expend capital money in drainage, roadmaking and other improvements; (*e*) to insure against damage by fire; (*f*) to let and make arrangements with tenants; (*g*) to determine tenancies and accept surrenders of leases or tenancies; and (*h*) generally to deal with the property in a proper and due course of management.

So far, therefore, as the management and improvement of the property are concerned, the statute has given the fullest powers to trustees for sale and put them in that regard in the same position as trustees of a settlement acting during the minority of a tenant for life, and in short enabling them practically to act as though they were absolute owners.

It is surely better that such extensive powers should be in the hands of trustees than in those of a tenant for life whose interest in preserving and improving the property may be small compared with that of the remainderman.

I can, in fact, think of no advantage which a settlement under the S.L.A. has over a settlement created by way of

trust for sale, whilst the latter will in a large number of cases be greatly preferable and more in accordance with the intentions of the settlor or testator.

Perhaps in the case of very large estates (the number of which is rapidly diminishing) a settlement under the S.L.A. will be the more appropriate method if only because it has been traditionally adopted, but in the vast number of instances a trust for sale is by far the better way.

Landlord and Tenant Notebook.

The Meaning of "Repair."

None of the usual covenants in a lease has been the subject of so much judicial interpretation as the repairing covenant; but, possibly because no one has ever been asked to covenant to "repair" or to keep premises in "repair" *simpliciter*, the word itself, whether verb or noun, has rarely been discussed. We have ample authority on the meaning of such expressions as "good repair," "tenantable repair," "substantially repair" (often found in a covenant containing an infinitive in need of repair), and on the effect of the qualifying phrase "fair wear and tear excepted"; but few occasions have arisen in which the covenantee was able to allege that what was demanded by the covenantor was not repair at all.

Some years ago it looked as if a satisfactory definition had been supplied. In *Lurcott* v. *Wakely and Wheeler* [1911] 1 K.B. 905, C.A., at p. 924, Buckley, L.J., said: "Repair is restoration by renewal or replacement of subsidiary parts of a whole," which reads like a true definition, *per genus et differentiam*, and one which accords with most people's views on the subject.

But early this year we find Du Parcq, J., holding that the obstruction of a pipe by extraneous matter constitutes a breach of a covenant to keep that pipe in good repair. In *Bishop* v. *Consolidated London Properties Ltd.* (1933), 102 L.J., K.B. 257, the learned judge said: "'To repair' a thing means to make it fit again to perform its functions; to 'repair' means to put in order, and I think it means no more."

Obviously, if both passages be taken as definitions, the more recent one is wider than and inconsistent with the older one. And as Lord Justice Buckley's exposition was commended by another Court of Appeal in *Anstruther-Gough-Calthorpe* v. *McOscar* [1924] 1 K.B. 716, C.A., the question is of some interest.

The facts of *Lurcott* v. *Wakely and Wheeler* were that in consequence of demolition orders and notices under the London Building Act, 1894, the landlord of a 200-year-old Hatton Garden house had been compelled to pull down and rebuild the whole of one external wall. The house was let under a twenty-eight-year lease containing a tenant's covenant well and substantially to repair, paint, glaze, cleanse and keep in thorough repair and good condition, under which the lessor now sued for recoupment of his expenses. The defence relied on *Gutteridge* v. *Munyard* (1834), 7 C. & P. 129 ("It is not meant that the old building is to be restored in a renewed form at the end of the term") and other cases providing authority for the proposition that the age and character of a house are to be considered when applying the covenant, and it was argued that the plaintiff was seeking to make them liable to renew, not to repair. It was this that led to Buckley, L.J.'s, disquisition, and when the passage I have cited is read in the light of the facts and not divorced from its context, I think it is fair to say that the learned lord justice was not professing to define the term "repair." Thus: "'Repair' and 'renew' are not words expressive of a clear contrast. Repair *always involves renewal*; renewal of a part; of a subordinate part. A skylight leaks; repair is effected by hacking out the putties, putting in new ones, and renewing the paint . . . Repair is restoration by, etc." And the judgment of Fletcher Moulton, L.J., contains a phrase to the effect that repair *included* replacement of parts.

And when Scrutton, L.J., in *Anstruther-Gough-Calthorpe* v. *McOscar*, *supra*, expressed approval he did so guardedly: "There is an analysis of the meaning of 'repair' by Buckley, L.J., in *Lurcott* v. *Wakely*, with which, *as far as it goes*, I agree. The tenant must, when necessary, restore by reparation or renewal of subsidiary parts the subject-matter demised to a condition in which it is reasonably fit for the purposes for which such a subject-matter would ordinarily be used." In the same case, Atkin, L.J., said he concurred with Buckley, L.J., and Fletcher Moulton, L.J., in *Lurcott* v. *Wakely*.

Nevertheless, allowing for the fact that no exhaustive definition was intended, it is not possible completely to reconcile the above-mentioned judgment of Buckley, L.J., with that of Du Parcq, J. (to whom it was not cited) in *Bishop* v. *Consolidated London Properties Ltd.*, *supra*, the facts of which were as follows: A pigeon—an animal usually associated with peacemaking rather than with litigation—had chosen as its last resting place the downfall pipe of a block of flats and its body had caused water to damage one of them, which was held by the plaintiff of the defendants, owners of the block, who had covenanted "to keep the exterior of the premises and all parts of the building, including halls, staircases and passages not the subject of this or some other letting in good repair." In answer to the claim they pleaded that the event was outside the contemplation of the parties to the covenant, a plea which was rejected on the ground that "repair" meant "make fit again to perform its functions."

This is not consistent with Buckley, L.J.'s "repair *always* involves renewal." It is consistent with Scrutton, L.J.'s, pronouncements, but whether the latter, when qualifying his endorsement by "as far as it goes" and when referring to "fitness for purpose" had in his mind a state of affairs calling for the removal of extraneous substances rather than the replacement of existing substances, is difficult to say, for in neither case was such a question in issue.

In the course of his judgment, Du Parcq, J., also found facts on which he would, if necessary, have given judgment for the plaintiff on another ground, namely, negligence by reason of the fact that pigeons were known to nest in the neighbourhood, and on this the plaintiff could have succeeded in tort. (The law on this point may be found discussed and reviewed in an Australian appeal, *Rickards* v. *Lothian* [1913] A.C. 263.) This finding will, no doubt, have been a decisive factor if the defendants ever contemplated appealing; I mention this because it is eminently desirable that landlords and tenants should have some final ruling on the meaning of "repair," a word which occurs in every lease. In the meantime, those who wish to ensure that covenants shall oblige covenantors to remove dead pigeons from pipes or pay for the damage occasioned by their presence would do well to insert the expression "and cleanse," which, incidentally, was contained in the covenant in the *Lurcott* v. *Wakely* case, though it did not affect the issue.

Our County Court Letter.

RECENT BANKRUPTCY DECISIONS.

(*a*) Journeyman or Sub-Contractor?

In *In re Sutcliffe: Hall* v. *Barnfield*, at Walsall County Court, the applicant moved for the admission of a proof for £144 in respect of building work. The applicant's case was that (1) while working for the bankrupt as a journeyman carpenter, he made verbal contracts (in February and March, 1932) for fencing and gates; (2) the total value was £1,140, of which the above amount was outstanding; (3) he was put on day work again in August, 1932, and—on enquiring about a settlement—he was assured by the bankrupt that he would

be paid; (4) he continued in the bankrupt's employ until April, 1933, and had a further claim of £118 for day work. The case for the respondent (the trustee) was that (*a*) all work done under the contracts was paid for, prior to August, 1932; (*b*) although the applicant had continued to work on the same property, he had been employed on day work, at £3 15s. a week; (*c*) there was no mention of any debt from the bankrupt until his departure in April, 1933; (*d*) the applicant's work had been unsatisfactory. His Honour Judge Tebbs observed that (1) although the applicant had entered into contracts, he had received weekly sums, for the payment of wages and his own profit; (2) he might have refused to revert to day work in August, 1932, but—having then failed to exercise his option—he could not now say that (while engaged on day work) he was finishing his contracts. The rejection of the proof was therefore upheld, and the application was dismissed with costs.

(*b*) The Constituents of Fraudulent Preference.

In *In re Hotchkin; Turton* v. *Hotchkin*, at Boston County Court, the trustee applied for a declaration that a payment of £700 to the bankrupt's brother was void as a fraudulent preference. The applicant's case was that (1) the bankrupt was in difficulties in January, 1933, when the landlord was pressing for arrears of rent; (2) the bankrupt then arranged for his farm to be taken over by his brother, who (being a creditor for £700) had deducted that amount from the valuation; (3) bankruptcy supervened within three months, viz., in February, and the amount was repayable under the Bankruptcy Act, 1914, s. 44 (1). The respondent's case was that (*a*) the debtor was not aware of his insolvency, or impending bankruptcy, at the time of the payment; (*b*) the latter was indirect, as the dominant motive was to get rid of the liability of the farm, and not to prefer the brother over the other creditors. His Honour Judge Langman observed that (1) the fact that a farmer could not pay his rent did not give rise to an inference of insolvency or approaching bankruptcy; (2) although an ordinary trader's position was definite, a farmer had to lock up capital in his land, and his position often remained in doubt until the harvest. It was held that there was no proof of intention to prefer the brother, and the motion therefore failed, with costs in favour of the respondent.

ANGINA PECTORIS AND WORKMEN'S COMPENSATION.

In *Mound* v. *Beddard*, recently heard at Shrewsbury County Court, an award was claimed in the following circumstances: (*a*) the applicant (aged fifty-nine) was lifting flitches of bacon (weighing up to 90 lbs.) through a trap-door on the 11th August, 1931, (*b*) owing to a pain in his chest, he then had to rest, but he remained at work until the 3rd November, 1931, (*c*) on that date he had another accident (i.e., a similar pain) which he reported on the 30th November, 1931, (*d*) being certified fit on the 3rd December, he returned to work over Christmas, 1931, but was incapacitated soon afterwards, and had since remained so. Corroborative evidence was given by a fellow workman, and a local doctor stated that, on the 12th August, he diagnosed "overwork of heart by carrying pig carcases upstairs." The specialist's evidence was that the symptoms indicated *angina pectoris*, the pains being caused by the sudden exertion imposed upon the applicant, who was now only fit for sedentary work. The respondent's medical evidence was that (1) the applicant had been examined on the 3rd December, 1931, and in February, 1932, (2) the heart and pulse were normal, and there were no indications of angina or any physical incapacity. His Honour Judge Samuel, K.C., was not satisfied that the applicant's condition was due to his work, and judgment was given for the respondent, with costs. Compare *Partridge Jones and John Paton Limited* v. *James* (1933), 77 Sol. J. 100.

Obituary.

Mr. DILLON R.-L. LOWE.

We regret to announce the death of Mr. Dillon Ross-Lewin Lowe on the 16th September, 1933, at the age of seventy-seven.

He was educated at Highgate School, and on leaving was articled to his father, Francis Lowe. He came of an old legal family, for his father, in partnership with his uncle, Robert Manley Lowe, practised at 2, Tanfield-court, Temple, under the style of "R. M. & F. Lowe," in succession to his grandfather William Lowe and great-uncle, who had practised there as "John and William Lowe" for many years.

Mr. Dillon Lowe was admitted in January, 1879, and practised first at 2, Tanfield-court, and afterwards (from about 1885 until his death) at 2, Temple-gardens, under the style of Lowe & Co., in which firm his elder brother, Mr. William Ross-Lewin Lowe, was one of his partners until his retirement in 1922; so that for over 100 years two brothers were members of the firm.

Mr. Dillon Lowe was a director of the Law Life Assurance Society until the amalgamation of that company with the Phœnix Assurance Company, and until his death he was a director of the Law Fire Insurance Society and of The Solicitors' Law Stationery Society, Limited.

He was a prominent Freemason, being a Past Master of Cholmeley Lodge and of Prince of Wales Lodge, and a Past Grand Deacon of Grand Lodge.

He was a member of the "Lowtonian Society," as his uncle, R. M. Lowe, and his grandfather, William Lowe, had been before him.

Socially and professionally he had a host of friends, and no one who came in contact with him could fail to be attracted by his charm and geniality; he was remarkably even-tempered and showed the greatest courtesy to all with whom he came in touch.

For the last two years Mr. Lowe was in failing health and bore the infirmities which came to him with most extraordinary fortitude and patience, and in spite of his failing health he managed to attend to business to some extent.

He leaves a son, the Rev. Robert D. T. Lowe, and a daughter, now Mrs. Morgan, wife of Commander Llewellyn Vaughan Morgan, M.V.O., D.S.C., R.N., and three grandchildren.

Mr. R. BULGIN.

Mr. Reginald Bulgin, solicitor, a partner in the firm of Messrs. Marshall, Son & Bulgin, of Colchester, died on Saturday, 16th September, at the age of forty-two. Admitted a solicitor in 1913, Mr. Bulgin was in the office of the Public Trustee in London before he joined Messrs. Marshall, Son and Bulgin in 1922.

Mr. W. R. POWELL.

Mr. Walter Rice Powell, solicitor, of Weston-super-Mare, died on Monday, 18th September, at the age of sixty-six. Mr. Powell, who was admitted a solicitor in 1890, practised in partnership with his son, Mr. Roland Powell, as Messrs. W. R. Powell & Son. He was for many years Secretary of the Weston-super-Mare Harriers.

Mr. B. W. GINSBURG.

Mr. Benedict William Ginsburg, LL.D., barrister-at-law, of King's Bench Walk, Temple, died at Shellong, India, on Monday, 11th September. Educated at Charterhouse and St. Catherine's College, Cambridge, he was called to the Bar by the Inner Temple in 1883 and joined the Northern Circuit, later specialising in Admiralty work. He was responsible for various publications, chiefly on shipping and legal subjects.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

What is an Agricultural Holding? — Claim by Weekly Tenant.

Q. 2821. A is the owner of a dwelling-house, out buildings and paddock in all comprising 1 acre. The paddock, ¾-acre in size, has been let on a weekly tenancy to B for the purpose of a chicken run. It is not stocked, nor any part ploughed, and there are no buildings upon it other than temporary chicken coops. A week's notice to quit has been given to B, who now claims he is the tenant of an agricultural holding, and as such is entitled to the proper notice and compensation for disturbance. Is the piece of land, ¾-acre in size, a holding within the meaning of the Agricultural Holdings Act, 1923?

A. This piece of land is not an agricultural holding within the meaning of the statute, since it is only let on a weekly tenancy. See s. 57 (1), which limits the application of the Act to tenancies for a term of years or from year to year. See *Lockhart* v. *Osborne* (1888), 36 Sol. J. 365 and *King* v. *Eversfield* [1897] 2 Q.B. 475 (judgment of A. L. Smith, L.J.).

Costs of Drawing Uncompleted Lease.

Q. 2822. A verbally agreed to underlease for 900 years a plot of land to B at a yearly rent of £11. No mention was made of the costs, but A said that he would instruct his solicitors to prepare the underlease. This he did, and the underlease was sent for approval to B's solicitors. B's solicitors kept the underlease for several weeks, and in response to enquiries, ultimately informed A's solicitors that B was not completing the matter. It is assumed that the reason for this is a dispute as to the amount of land. Assuming A to be in the right in this dispute, we shall be pleased if you will advise (1) if A pays his solicitors' costs of the underlease, can he recover the amount from B; (2) should the solicitors' remuneration be under sched. 2?

A. Although it was held in the old case of *Baker* v. *Merryweather* (1849), 2 C. & K. 737, that a lessee was liable to repay the lessor for a lease the former did not take up, it has never been suggested that a proposed lessee is liable for the mere costs of preparing an unapproved draft. In the case cited the attorney for the lessor was also attorney for the lessee, so there was presumably no question as to the agreement. If A is right as to there having been a definite agreement, and if the draft only contains the usual provisions which under an open agreement a lessee must accept, the case cited seems to be an authority that if A completed the lease and paid the costs he could recover. In view of the strong probability that the draft contains other clauses, and also in view of the possibility that the old case cited would not be followed where there was no agreement in writing within s. 40 of L.P.A., 1925, A could hardly be advised to adopt this course. The costs of an uncompleted lease are chargeable against the lessor under sched. 2.

Appointment of Trustees of Religious Trust.

Q. 2823. (1) Where in the case of a religious trust one trustee has gone abroad permanently, another has become bankrupt, another is mentally incapable, another declines to act, and another is definitely hostile, can the remaining trustees, without resort to the court or the Charity Commissioners, appoint new trustees by an ordinary deed of appointment in which those trustees who have ceased for the above reasons to be trustees do not join, or must the Trustees Appointment Acts 1850, 1869 and 1890 be resorted to under such circumstances to make an effective appointment.

(2) If these Acts are not resorted to and there is only one recalcitrant trustee, no longer a member of the congregation and no longer acting in the trust, can he be ignored on an ordinary appointment of new trustees by deed, on the ground that in the administration of trusts of a charitable nature the decision of a majority of the Trustees is binding on the minority (Charitable Trusts Act, 1869, s. 12, and 1860, s. 16, and *Re Whiteley*, 1910), and though he does not join, will s. 40, Trustee Act, 1925, divest him of his estate and vest it in the new trustees? It is assumed that there would have to be a recital to the effect that the recalcitrant trustee had ceased to be a trustee.

(3) Would there need to be a statutory declaration by someone conversant with the facts to preserve evidence of the various causes why such trustees had ceased to be trustees, and why they did not join in the new appointment.

A. (1) It is not stated whether there is a trust deed providing for the circumstances in which appointments can be made. Section 3 of the Trustees Appointment Act, 1890, makes the statutory power applicable, but there is nothing in the Trustee Act, 1925, rendering a bankrupt trustee unfit to act, nor is there anything in that Act to warrant the displacement of the "hostile" trustee. The answer to this question is therefore in the negative.

(2) and (3) If it can be fairly said that the hostile trustee is unwilling to act in the administration of the trust according to the trust deed, if any, or in accordance with the purpose of the trust, the persons authorised by the trust deed, or failing any such persons the willing and bankrupt trustee may appoint new trustees and a statement that one trustee has remained out of the kingdom for more than twelve months, that one is incapable of acting and that one refuses to act would be sufficient in favour of a purchaser under s. 38 of the Act of 1925, and apparently would be valid in six months under s. 6 of the Act of 1890 without the necessity of any statutory declaration. It would not be wise to make any appointment without communication with the hostile trustee, and if he raises objection it would be well to go to the Charity Commissioners.

Assignment of Tithe — Authority to Queen Anne's Bounty—Form of Authority.

Q. 2824. A beneficed clergyman wishes to borrow a sum of money from another client of ours, and the latter has agreed to lend it without interest, provided that its repayment by four equal quarterly instalments is in some way or other provided for through our offices.

(1) Will Queen Anne's Bounty accept an authority to pay all or part of a clergyman's tithe to a third party?

(2) If so, in what form should the authority be prepared so that it cannot be revoked?

A. So far as we have been able to ascertain, it would not be very easy to carry out this programme in view of the fact that in the event of the decease of the borrower his right to the title would come to an end, and thereafter any receipts from that source would go to the sequestrators of the benefice. We see no harm, however, in communicating with Q.A.B. to ascertain whether they have any suggestion to make, obviously any authority would have to be in such form as they might desire.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

All Old Bailey barristers who aspire to judicial honours should hang up in their chambers the portrait of Sir William Garrow, a criminal advocate by heavenly gift. The third son of a Middlesex clergyman, he was educated at the school his father kept. Afterwards he was articled to an attorney in Milk-street, Cheapside, but he showed so much promise that it was determined to send him in pursuit of the glittering prizes of the Bar. Practice in debating societies had made him a powerful speaker, and in the year of his call, he distinguished himself by securing the conviction of John Aikles on a charge of feloniously stealing a bill of exchange. He soon had a big criminal practice, took silk in 1793, became Solicitor-General in 1812, and Attorney-General in 1813. "No man more clearly, more continuously presented his case to those he was addressing. His language was plain, but it was well strung together. He reasoned little, he jested less; he not rarely declaimed, and he had sufficient force to produce his effect. His discretion, his perfect judgment and entire self command exceeded that of most men." Still, all this and a deadly skill in cross-examination was based on so slight a foundation of law that, in addressing the House of Lords, he simply read arguments prepared by a more learned friend. In 1814 he was raised to the bench of the Court of Exchequer. He was at his best as a criminal judge, and outside that sphere he had enough discretion not to get out of his depth. He retired in 1832, and died at Pegwell Cottage, his house, near Ramsgate, on the 24th September, 1840.

MORE WITCHCRAFT.

From Tanganyika comes news of a mass trial of the entire male population of a village—seventy-five men accused of killing two women believed to be witches. The case, repeating a similar one at Nairobi only last year, suggests many questions as to the true nature of witchcraft—hypnotism, psychic phenomena, or something more? It is worth remembering that European witchcraft was at its height, not in the Middle Ages, but in the century and a half which succeeded the Renaissance. The belief was not only sincere, but practical also, as witness a witchcraft case tried by Mr. Justice Rainsford at Salisbury, about 1670. "Sir James Long came to his chamber and made a heavy complaint of this witch, and said that if she escaped, his estate would not be worth anything, for all the people would go away. It happened that the witch was acquitted, and the knight continued extremely concerned; therefore, the judge, to save the poor gentleman's estate, ordered the woman to be kept in gaol and that the town should allow her 2s. 6d. per week, for which he was very thankful. The very next assize he came to the judge to desire his lordship to let her come back to the town. And why? They could keep her for 1s. 6d. there, and in the gaol, she cost them a 1s. more."

A GOOD WORD FOR ROBES.

In the course of this Long Vacation, I was pleased to see that a speaker at an Oxford Summer School had a good word to say for legal wigs and gowns, observing that though they might be ridiculous and inconvenient, they saved us from the indecent familiarity of some American courts, and we should probably get worse law from an uncovered head. On this point, there is a true word worth remembering, in Mr. Plowden's "Grain and Chaff," where he calls for some symbolic badge for his fellow stipendiaries. Later, he says: "It is almost of the essence of justice that it should at least *look* wise, and never has anything been better designed for the purpose than a judicial wig. There is no face so wise to look upon that it may not be made to look wiser in the framing of a wig." On the institution of the Supreme Court of the United States, the question of official apparel was hotly debated. Jefferson wanted none, and pleaded that they should "for Heaven's sake discard that monstrous wig which makes the English judges look like rats peeping through bunches of oakum." In the end, the gown alone survived. Even on this side of the Atlantic, people have said hard things about the wig. "Who would have supposed," asked Lord Chancellor Campbell, "this grotesque ornament, fit only for an African chief, would be considered indispensably necessary for the administration of justice in the middle of the nineteenth century?" Still, Campbell wore it.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Mental Disorder.

Sir,—In your issue of the 16th inst., you refer to the Mental Treatment Act as "a step in the right direction although it leaves much to be done before the problem reaches a final solution."

The present system based on fear, ignorance and superstition is a relic of the past and should be swept away.

Certification should be exclusively in the hands of mental specialists, and those whose duty is to administer the lunacy laws should be recruited from the ranks of medical men experienced in the early treatment and prevention of mental illness.

Gloomy, prison-like structures should be demolished and a service of social workers, specially trained, should be installed.

In short, the lunacy code should be "entirely recast" as was recommended by the Royal Commission.

FRANCIS J. WHITE,
Secretary.

National Society for Lunacy Law Reform (Ltd.),
Southampton Row, W.C.1.
18th September.

The Law Society.

ANNUAL PROVINCIAL MEETING.

The Council of The Law Society have settled the following course of procedure to be adopted at the Forty-ninth Provincial Meeting to be held on Tuesday and Wednesday, the 26th and 27th September, 1933, at the Carfax Assembly-rooms, Oxford (Sir Reginald Ward Edward Lane Poole, B.A., President):—Tuesday, 26th September, 1933, at 10.30 a.m., at the Carfax Assembly-rooms, Oxford.—The proceedings will commence with the President's Address, after which the following papers will be read: "The Preservation of Local and Private Records," Hilary Jenkinson (F. W. Maitland Lecturer in the University of Cambridge, Reader in Diplomatic and Archives in the University of London); "The Solicitors Act, 1933, and the proposed Rules thereunder," H. Nevil Smart, C.M.G., O.B.E. (London); "Income Tax," George Mallam (Oxford); "The Law relating to Electricity," E. W. Hudson (London); "The Rent and Mortgage Interest Restrictions (Amendment) Act, 1933," F. G. Jackson (Leeds). Wednesday, 27th September, 1933, at 10.45 a.m., at the Carfax Assembly-rooms, Oxford.—"Building Societies and the Legal Profession," J. B. Leaver (London and Blackpool); "Notes on recent Property Legislation with some suggestions for amendment," John Snow (Oxford); "The Reform of the Law of Married Women," Isidore Kerman (London). The President may make such alteration in the order of the papers as he may think convenient.

The Annual General Meeting of The Solicitors' Benevolent Association will be held at 9.45 a.m. on Wednesday, the 27th September.

SCHOOL OF LAW.

The Autumn Term will open on 27th September. Lectures will commence on 2nd October. Copies of the detailed time-table can be obtained on application to the Principal's Secretary.

The Principal (Mr. G. R. Y. Radcliffe) will be in his room to advise students on their work, on Wednesday, 27th September (students whose surnames commence with the letters A-K),

and Friday, 29th September (students whose surnames commence with the letters L-Z), from 10.30 a.m. to 12.30 p.m., and from 2 p.m. to 5 p.m.

The subjects to be dealt with during the term will be, for Intermediate students (i) Public Law, (ii) Status and Personal Property, (iii) Criminal Law and Procedure, and (iv) Civil Procedure, and (iv) Accounts and Book-keeping. The subjects for Final students will be (i) Law of Property, (ii) Bankruptcy and Company Law, and (iii) General Principles of Contract.

There will also be courses on (i) Tort, (ii) Equity, and (iii) Jurisprudence, for Honours and Final LL.B. students, and on (i) The English Legal System, and (ii) Roman Law for Intermediate LL.B. students.

Intermediate students must notify the Principal's Secretary before 29th September on the entry form, whether they wish to take morning or afternoon classes.

Students can obtain copies of the regulations governing the three studentships of £40 a year each, offered by the Council for award in July next, on application to the Principal's Secretary.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve the appointment of Mr. Justice JAMES HARVEY MONROE and of Mr. FRANK WHITTINGHAM SKEMP, Indian Civil Service, to be Puisne Judges of the High Court of Judicature at Lahore in the vacancies which will be caused by the retirement of Sir Alan Broadway and Mr. Justice Harrison on 2nd October next.

Mr. E. LOUIS JONES, solicitor, of Llanfyllin, Montgomeryshire, has been appointed district registrar of the High Court at Wrexham and registrar of the Wrexham, Mold, Oswestry and Llanfyllin County Courts. Mr. Jones was admitted a solicitor in 1907.

Professional Announcements.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS, or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

RE-OPENING OF THE LAW COURTS.

SERVICE AT WESTMINSTER ABBEY, MONDAY, 2ND OCTOBER, 1933.

On the occasion of the re-opening of the Law Courts, a Special Service, at 11.45 a.m., will be held in Westminster Abbey, at which the Lord Chancellor and His Majesty's Judges will attend.

In order to ascertain what space will be required, members of the Junior Bar wishing to be present are requested to send their names to the Secretary of the General Council of the Bar, 5, Stone-buildings, Lincoln's Inn, W.C., before 4 p.m. on Friday, the 29th September.

Barristers attending the service must wear robes. All should be at the Jerusalem Chamber, Westminster Abbey (Dean's-yard entrance), where robing accommodation will be provided, not later than 11.30 a.m.

A limited number of seats in the South Transept will be reserved for friends of members of the Bar. Two tickets for these seats will be issued to members of the Bar on application to the Secretary of the General Council of the Bar.

No tickets are required for admission to the North Transept, which is open to the public.

WESTMINSTER CATHEDRAL.

A Votive Mass of the Holy Ghost (the Red Mass) will be said on Monday, 2nd October (the opening of the Michaelmas Law Term) at 11.30 a.m. His Eminence the Cardinal Archbishop of Westminster will assist. Counsel will robe in the Chapter Room at the Cathedral. The seats behind counsel will be reserved for solicitors.

PROPERTY OWNERS' PROTECTION ASSOCIATION.

A meeting of the Property Owners' Protection Association will be held at the Memorial Hall, Farringdon Street, E.C., on Wednesday, 27th September, at 3 p.m., Sir Robert Gower, O.B.E., M.P., will be in the chair. The new Rent Act will be fully explained, and landlords will be advised as to their rights and obligations thereunder. Admission cards may be obtained from the offices of the Association at Spencer House, South Place, Moorgate, E.C.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 28th September, 1933.

	Div. Months.	Middle Price 20 Sept. 1933.	Flat Interest Yield.			†Approximate Yield with redemption		
			£	s.	d.	£	s.	d.
ENGLISH GOVERNMENT SECURITIES								
Consols 4% 1957 or after	FA	109	3	13	5	3	8	7
Consols 2½%	JAJO	73¾	3	7	9		—	
War Loan 3½% 1952 or after	JD	100½	3	9	8	3	9	3
Funding 4% Loan 1960-90	MN	111¾	3	11	7	3	6	8
Victory 4% Loan Av. life 29 years	MS	109	3	13	5	3	10	0
Conversion 5% Loan 1944-64	MN	117¾	4	4	11	3	1	6
Conversion 4½% Loan 1940-44	JJ	111	4	1	1	2	15	0
Conversion 3½% Loan 1961 or after	AO	99½	3	10	4		—	
Conversion 3% Loan 1948-53	MS	98½	3	0	11	3	2	2
Conversion 2½% Loan 1944-49	AO	94¼	2	13	0	2	19	2
Local Loans 3% Stock 1912 or after	JAJO	86	3	9	9		—	
Bank Stock	AO	350½	3	8	6		—	
Guaranteed 2½% Stock (Irish Land Act) 1933 or after	JJ	77	3	11	5		—	
India 4½% 1950-55	MN	109½	4	2	2	3	14	8
India 3½% 1931 or after	JAJO	86	4	1	5		—	
India 3% 1948 or after	JAJO	74	4	1	1		—	
Sudan 4½% 1939-73	FA	110	4	1	10	2	10	3
Sudan 4% 1974 Red. in part after 1950	MN	108	3	14	1	3	7	6
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	101	2	19	5		—	
COLONIAL SECURITIES								
*Australia (Commonw'th) 5% 1945-75	JJ	110	4	10	11	3	18	9
*Canada 3½% 1930-50	JJ	100	3	10	0	3	10	0
*Cape of Good Hope 3½% 1929-49	JJ	101	3	9	4		—	
Natal 3% 1929-49	JJ	95	3	3	2	3	8	7
New South Wales 3½% 1930-50	JJ	95	3	13	8	3	18	1
*New South Wales 5% 1945-65	JD	109	4	11	9	4	0	9
*New Zealand 4½% 1948-58	MS	106	4	4	11	3	18	8
*New Zealand 5% 1946	JJ	110	4	10	11	3	18	9
*Queensland 4% 1940-50	AO	100	4	0	0	4	0	0
*South Africa 5% 1945-75	JJ	112	4	9	3	3	14	9
*South Australia 5% 1945-75	JJ	109	4	11	9	4	0	9
*Tasmania 3½% 1920-40	JJ	100	3	10	0	3	10	0
Victoria 3½% 1929-49	AO	95	3	13	8	3	18	7
*W. Australia 4% 1942-62	JJ	101	3	19	2	3	17	2
CORPORATION STOCKS								
Birmingham 3% 1947 or after	JJ	84	3	11	5		—	
Birmingham 4½% 1948-68	AO	112	4	0	4	3	9	3
*Cardiff 5% 1945-65	MS	109	4	11	9	4	0	9
Croydon 3% 1940-60	AO	92	3	5	3	3	9	3
*Hastings 5% 1947-67	AO	112	4	9	3	3	17	6
Hull 3½% 1925-55	FA	98	3	11	5	3	12	8
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	99	3	10	8		—	
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	72	3	9	5		—	
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	85	3	10	7		—	
Manchester 3% 1941 or after	FA	84	3	11	5		—	
Metropolitan Consd. 2½% 1920-49	MJSD	93	2	13	9	3	1	3
Metropolitan Water Board 3% "A" 1963-2003	AO	86	3	9	9	3	10	10
Do. do. 3% "B" 1934-2003	MS	87	3	9	0	3	10	0
Do. do. 3% "E" 1953-73	JJ	95	3	3	2	3	4	6
*Middlesex C.C. 3½% 1927-47	FA	100	3	10	0	3	10	0
Do. do. 4½% 1950-70	MN	113	3	19	8	3	9	5
Nottingham 3% Irredeemable	MN	84	3	11	5		—	
*Stockton 5% 1946-66	JJ	112	4	9	3	3	16	2
ENGLISH RAILWAY PRIOR CHARGES								
Gt. Western Rly. 4% Debenture	JJ	102½	3	18	1		—	
Gt. Western Rly. 5% Rent Charge	FA	117½	4	5	1		—	
Gt. Western Rly. 5% Preference	MA	100½	4	19	6		—	
‡L. & N.E. Rly. 4% Debenture	JJ	96½	4	2	11		—	
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	83	4	16	5		—	
‡L. Mid. & Scot. Rly. 4% Debenture	JJ	100	4	0	0		—	
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	91½	4	7	5		—	
Southern Rly. 4% Debenture	JJ	103	3	17	8		—	
Southern Rly. 5% Guaranteed	MA	113	4	8	6		—	
Southern Rly. 5% Preference	MA	101½	4	18	6		—	

* Not available to Trustees over par.

† In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

‡ These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.

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Printed by THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., at "Oyez" House, Fetter-lane, London, E.C.4, and Published at 29, Breams-buildings, E.C.4 ('Phone: Holborn 1853). Agents—The United States and Canada: The Carswell Co., Ltd., 145-149, Adelaide-street West, Toronto 2, Canada; India: Higginbothams, Publishers, Mount-road, Madras; Australia and New Zealand: "The Times," 255A, George-street, Sydney, N.S.W. Saturday, 23rd September, 1933.